



**441 Page Street • P.O. Box 427
Troy, North Carolina 27371-0427**

PHONE: (910) 576-6511 • FAX: (910) 576-2044

9/3/2019

The attached Board Resolution is for the purpose of establishing a 403(b) retirement plan for the employees of Montgomery County Schools. The plan is with Prudential, who is the approved retirement plan vendor for the State of NC. This will provide our employees another retirement plan option in addition to the 401(k) retirement plan which is also with Prudential.

Mitch Taylor
Finance Officer
Montgomery County Schools

Board Resolution

WHEREAS, the Montgomery County Schools Board of Education wishes to provide a 403(b) plan to the employees of Montgomery County Schools.

AND WHEREAS, the State of North Carolina has established the North Carolina Public Schools Teachers' and Professional Educators' Investment Plan ("NC 403(b) Program") for the benefit of employees of local school boards and community colleges in North Carolina.

THEREFORE, be it resolved that Montgomery County Schools Board of Education has adopted the NC 403(b) Program under the terms of the Plan Document and the Third-Party Administrator Agreement. All employees shall become eligible to defer compensation immediately.

Signed this _____ day of _____ 20_____

Steven W. DeBerry, Chairman of the
Montgomery County Board of Education

Date



North Carolina
Total Retirement Plans
403b



Dale R. Folwell, CPA
STATE TREASURER OF NORTH CAROLINA
DALE R. FOLWELL, CPA

**Employer Operational Questionnaire and
Client Authorized Representative (CAR) Form
State of North Carolina Supplemental Retirement Plans
NC 403(b) – 022003**

About You

Employer (Subplan) Name Montgomery County Schools

Orbit Agency Number 36200

Employer (Subplan) Number 050620

Type of employer entity (SP660) - Circle One of the following – Charter School, Community College, County, Municipality, Other, School State Agency, University

Mailing address PO Box 427

City Tray

State NC

Zip 27371

County Montgomery

Employee Eligibility

Waiting period before a new employee is eligible to participate in a NC Supplemental Retirement Plan:

None ☒

Days _____

Weeks _____

Months _____

The plan document dictates that membership cannot be restricted beyond sixty (60) days from membership within the Retirement System and membership cannot begin before that of the Retirement System (NC 401(k) only).



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Employer Contributions

Will you remit an employer contribution? _____ Yes ☒ No

If yes, please respond below:

Waiting period, if any, before a new employee is eligible to receive the employer contribution?

Which NC Supplemental Retirement Plan will the employer contribution be going to?

Match (i.e. match up to 5%)

Employer Across the Board Contribution (i.e. 3% regardless of participation)

Combination of match and across the board contribution (i.e 1% match and 1% across the board)

Pay Frequency (SP905)

_____ Weekly

_____ Bi-weekly

Multiple (please list) _____

_____ Semi-monthly

☒ Monthly

Loan repayment frequency (SP904)

_____ Weekly

_____ Bi-weekly

Multiple (please list) _____

_____ Semi-monthly

☒ Monthly

Contribution Remittance Method (data)

☒ System generated file

_____ Internet Contribution Center (ICC) on Sponsor Center website

_____ VDES



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Funding

☒ ACH Debit (*Prudential debits a pre-approved account upon receipt of file*)
☐ Wire
☐ Check

Deferral Rates

☐ Percentage(%) ☐ Both ☒ Flat Dollar (whole dollars only)

Contribution Accelerator – if you would like to make the feature of contribution accelerator available to your employees (requires percentage (%) based deferral rates), please complete the "Contribution Accelerator Employer Election" Form.

Eligible State of NC employers (K-12/Community Colleges)

If applicable, please provide a listing of the authorized investment providers for your 403(b) plan.

Do you utilize a Third Party Administrator (TPA) for 403(b) Plan Administration? ☒ Yes ☐ No

If yes, please provide information for the TPA firm:

Name of TPA Firm TSA Consulting
Address 15 Yacht Club Drive NE
City, State ZIP Fort Walton Beach FL 32548
TPA contact name Kevin Hensley
TPA contact phone/e-mail 888-777-5827 x1313 khensley@tsaag.com
TPA fee paid by plan participants (monthly) n/a

What plan administration services does your TPA provide? Check all that apply:

☒ Payroll Data and Funding submission to 403(b) recordkeepers
☐ Plan Document (please provide copy if checked)
☒ Participant Transaction Approval
☐ Other – please specify _____



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Are you adopting the NC Teachers' and Educators' 403(b) Program Plan document?

☒ Yes

☐ No

Please choose the type of 403(b) offering you are making available to your eligible employees:

☐ Exclusive (Prudential Retirement is the exclusive recordkeeper available to all eligible employees for your 403(b) Program).

☐ New Hire (Prudential Retirement is the exclusive 403(b) recordkeeper for new employees. Legacy recordkeepers continue to be available for plan members that previously selected and participate in those programs).

☒ Multi-vendor (You will continue to offer multiple 403(b) recordkeepers, including Prudential Retirement, to all eligible employees).

Employer Authorization

These operational guidelines are set forth with respect to the plan indicated below:

☐ NC 403(b) - 022003

Montgomery County Schools

Name of Employer (Please Type or Print)

By: _____

(Signature of Authorized Signer)

Print Name: _____

Title: _____

Date: _____



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STATE TREASURER OF NORTH CAROLINA
DALE R. FOLWELL, CPA

Client Authorized Representatives (CAR)

The above signed authorized representative of the Plan Sponsor and/or Employer designates the following individuals as representatives of the Plan Sponsor and/or Employer to provide directions to Prudential Retirement, including its affiliates and successors. If applicable, designated individuals may provide direction.

List actual current contacts: We need at least one primary Human Resources and one primary Payroll contact.

The Human Resources (HR) contact will answer questions related to member status (active/termed).

The Payroll contact will assist with questions concerning the contribution and loan file.

The primary contact is just whom we reach out to first.

Name Michelle Brady
Title Benefits
Phone 910 576 6511
Fax 910 576 2044
Email michelle.brady@montgomery.k12.nc.us
Mailing address if different than above _____

Contact Type (check all that apply):

Payroll Primary ☒
Payroll Secondary _____
HR Primary _____
HR Secondary ☒
Authorized signer _____

Name Lisa Ritter
Title AFO
Phone 910 576-6511
Fax 910 576-2044
Email lisa.ritter@montg
Mailing address if different than above _____

Contact Type (check all that apply):

Payroll Primary _____
Payroll Secondary ☒
HR Primary ☒
HR Secondary _____
Authorized signer ☒



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403b



Dale R. Folwell, CPA
STATE TREASURER OF NORTH CAROLINA
DALE R. FOLWELL, CPA

Name Mitch Taylor
Title CFO
Phone 910 576-6511
Fax 910 576-2044
Email mitch.taylor@montgomery.k12.nc.us
Mailing address if different than above

Contact Type (check all that apply):

Payroll Primary _____
Payroll Secondary _____
HR Primary _____
HR Secondary _____
Authorized signer ☒

ssName _____
Title _____
Phone _____
Fax _____
Email _____
Mailing address if different than above

Contact Type (check all that apply):

Payroll Primary _____
Payroll Secondary _____
HR Primary _____
HR Secondary _____
Authorized signer _____

(Revised 7/2018)

AGREEMENT BETWEEN EMPLOYER AND PRUDENTIAL

WHEREAS, pursuant to N.C. Gen. Stat. § 115C-341.2(a) the North Carolina Department of State Treasurer ("Department") is authorized to establish the North Carolina Public School Teachers' and Professional Educators' Investment Plan ("NC 403(b) Program");

WHEREAS, pursuant to N.C. Gen. Stat. 115C-341.2(a), the Department approved Prudential Retirement Insurance and Annuity Company ("Prudential") as the third-party vendor of the retirement offerings under the NC 403(b) Program in Amendment Number 1 to the Contract for Third Party Administration and Communication Services for the Supplemental Retirement Income Plan of North Carolina and North Carolina Public Employee Deferred Compensation Plan ("Amendment Number 1");

WHEREAS, the Department has directed Prudential to provide certain Record Keeping Services for Plan Sponsors in accordance with Exhibit J to Amendment Number 1;

WHEREAS, certain eligible local boards of education or boards of trustees of a community college North Carolina public employers ("Employers") have adopted and sponsor the NC 403(b) Program ("Plan Sponsors");

WHEREAS, the State of North Carolina ("State") has acknowledged and consented to Prudential's sharing of certain NC 403(b) Program information with the Plan Sponsor, if applicable, to facilitate the Plan Sponsor's compliance with applicable regulatory requirements, including Internal Revenue Code Section 403(b);

WHEREAS, the Employer has adopted the NC 403(b) Program and has selected Prudential as directed recordkeeper for the [INSERT NAME OF] Plan ("Plan");

NOW THEREFORE, in consideration of the promises and mutual covenants, representations and warranties set forth herein, Prudential and Employer agree, as follows:

A. Definitions

1. Party or Parties: The Employer and/or Prudential, as applicable.
2. Plan Information: For purposes of this Agreement, Plan Information includes participant- specific data maintained by Prudential in connection with its responsibilities under Amendment Number 1.

B. Effective Date

1. The effective date of this Agreement will be 9/1/2019. This Agreement will remain in effect until terminated pursuant to Section 11.

C. Prudential Agreements

1. Transaction Approvals: As authorized by the Employer and where applicable, Prudential agrees to provide the Plan Sponsor with access to Prudential's Plan Sponsor Website in order to approve the transactions set forth in Section D of this Agreement that require Employer approval.

D. Services

Prudential shall provide the following Recordkeeping Services to the Plan as set forth in Exhibit J to Amendment Number 1 but more specifically as described herein:

1. Participant Records:
 - a. Prudential will establish and maintain Participant accounts and records.
 - b. Prudential will accept and process participant address change and account information from the Department, the Plan Sponsor, and from active and terminated Participants and beneficiaries.
 - c. Prudential will handle contribution processing and pricing.
 - d. Upon receiving an Automated Clearing House contribution file in good order, Prudential will debit the designated account for the required amount to fund the contribution.
 - e. Prudential will provide standard NC 403(b) Program information materials to Participants and will accept and record resulting Participant enrollment information.
 - f. Prudential will allow and maintain online and paper participant beneficiary designation forms.
2. Participant Deferral Rate Changes.
 - a. Prudential will collect and report participant deferral rate changes to the Plan Sponsor and Participant based on the frequency chosen by the Plan Sponsor.
3. Distribution Transaction Processing
 - a. For Participants with account balances of less than \$5,000 and who have had a Severance from Employment, as defined in the Plan Document, distributions shall be made upon the direction of the Plan Sponsor. For all other Participants, benefits must commence on the latest date permitted under Internal Revenue Code Section 401(a)(9).
 - b. Required Minimum Distributions support, including an annual report to each sponsor identifying Participants attaining age 70 1/2 during the

next 12 months, notification to affected Participants, and processing of withdrawals (only if requested by Participants).

- c. Upon request, Prudential will provide the forms necessary for Participants to initiate In-Service Withdrawals, Event Distributions (e.g., termination, retirement, disability), Qualified Domestic Relations Orders and Distributions Due to Death, and all such requests will be reviewed by the Plan Sponsor.
 - d. Provided that the Plan Sponsor has provided Prudential with all information necessary to compute correct the withholding tax liability, Prudential shall be responsible for tax reporting and withholding, if applicable, relative to all payments made from the Plan.
 - e. Prudential will verify that requested rollovers into the NC 403(b) Program can be accepted according to the provisions of the Plan Document and applicable law
4. Plan Sponsor Website (PSW): Prudential will provide the Plan Sponsor with access to:
- a. NC 403(b) Program information
 - b. Participant information
 - c. Investment information and performance
 - d. Library of easy-to-access reports
 - e. Resource center with pension-related information and links to related websites
 - f. Online access to NC 403(b) Program compliance tools, pension Information & links to related-topic sites
5. GoalMaker.
- a. Prudential will provide its GoalMaker service and support a custom glidepath for the Plan and its participants.
6. Participant Loan Requests
- a. Loans: Upon a request from a participant for a loan from the 403(b) Program, Prudential will provide the necessary form(s) to the participant. The participant will send the completed form(s) to the Plan Sponsor to determine the participant's eligibility for a loan from the NC 403(b) Program.
 - b. Prudential will not process a loan for a participant that exceeds 50% of the participant's eligible loan balance at Prudential.

7. Hardship Distribution Requests

- a. Upon a request from a participant for a hardship withdrawal from the Plan, Prudential will provide the necessary form(s) to the participant. The participant will send the completed form(s) and required hardship documentation to the Plan Sponsor to determine if the documentation satisfies the NC 403(b) Program's hardship provisions.
 - i. Participant will provide all necessary hardship documentation to the Plan Sponsor, who will be responsible for approving the hardship request.
 - ii. Under the 403(b) Program, only the following reasons for hardship will be considered: medical expenses, education expenses, purchase of principal residence, prevent eviction, prevent foreclosure, funeral expenses and casualty expenses
 - iii. Plan Sponsor will inform Prudential if the hardship request can be processed.
 - iv. Plan Sponsor will be responsible for ensuring the member's account is appropriately suspended across providers.

8. Limitation of Liability and Indemnification

- a. Each Party will be liable for any losses or damages incurred as a direct result of its negligence, errors, omissions and wrongdoing in the performance of, or failure to perform, their duties and obligations under this Agreement.
- b. Prudential shall not be responsible and shall have no liability for the use or misuse of any Plan Information that it makes available to Employer.
- c. Prudential agrees to defend, indemnify and hold the Employer and its respective employees, officers, directors, agents, and affiliates or other related persons or organizations (the "Employer Parties") harmless from and against any third party claims, demands, losses, damages, costs, expenses, liabilities, actions, suits or proceedings (hereinafter referred to as "Losses") that may be incurred by, imposed upon, or asserted against the Employer Parties, directly arising from any claim or action at law or in equity against the Employer Parties to the proportionate extent that it results from the negligence, errors, omissions or wrongdoing of Prudential, or its employees, officers, directors, agents, affiliates and subcontractors or other related persons or organizations ("Prudential Parties") in the performance of, or failure to perform, their duties and obligations under this Agreement. Notwithstanding the foregoing, Prudential shall not defend, indemnify or hold the Employer

- Parties harmless against Losses stemming from the Employer Parties' bad faith, negligence, or willful misconduct.
- d. OTHER THAN FOR LIABILITY ARISING DUE TO A BREACH OF CONFIDENTIALITY OR PRIVACY OBLIGATIONS, IN NO EVENT SHALL EITHER PARTY'S LIABILITY ARISING UNDER OR OUT OF THIS AGREEMENT, INCLUDING THE INDEMNITY REQUIREMENTS UNDER SECTION E, EXCEED FIVE MILLION DOLLARS (\$5,000,000).
 - e. If any third party threatens to commence or commences any action for which one Party (the "Indemnifying Party") may be required to indemnify the other Party hereunder (the "Indemnified Party"), the Indemnified Party shall promptly give notice thereof to the Indemnifying Party. The Indemnifying Party shall be entitled, at its own expense and without limiting its obligations to indemnify the Indemnified Party, to assume control of the defense of such action with counsel selected by the Indemnifying Party, which counsel shall be reasonably satisfactory to the Indemnified Party. If the Indemnifying Party assumes the control of the defense, the Indemnified Party may participate in the defense of such claim at its own expense. Without the prior written consent of the Indemnified Party, which consent shall not be withheld unreasonably, the Indemnifying Party may not settle or compromise the liability of the Indemnified Party in such action, or consent to or permit the entry of any judgment in respect thereof, unless in connection with such settlement, compromise or consent the Indemnified Party receives from such claimant an unconditional release from all liability in respect of such claim.
 - f. The indemnities granted by the Parties in this Section shall survive the termination of this Agreement.

9. Confidential Information/ Privacy Requirements/Security

- a. The Employer and Prudential recognize that in the course of sharing information as described herein, each Party may disclose to the other Confidential Information related to the Plan, Plan participants, and their respective business operations. All the Confidential Information, individually and collectively, and other proprietary information disclosed by either Party shall remain the sole property of the Disclosing Party, and the Receiving Party shall have no interest or rights with respect thereto if so designated by the Disclosing Party to the Receiving Party. Receiving Party agrees that it shall (a) hold the Confidential Information in strict confidence; (b) not give, sell or disclose Confidential Information to any other third party unless such Party is a legal or business advisor or an auditor or other contractors hired by the

Receiving Party who is bound by a confidentiality agreement or ethical obligation to maintain the confidentiality of the information ("Representative"); and (c) advise each Party who will be exposed to the Confidential Information under the terms of this agreement that it is to be kept strictly confidential. Use of Plan Information is limited to the provision of the Record Keeping Services. The Receiving Party shall use security and privacy measures to protect the Confidential Information that are reasonable and industry standard but in no event less than the Receiving Party uses to protect its own similar information.

- b. In addition, the Receiving Party may use or disclose Confidential Information to the extent (i) approved in writing by the Disclosing Party or (ii) required by law pursuant to a subpoena, court order or other similar process or governmental requirement, including applicable securities laws; provided, however, that prior to any compelled disclosure, the Receiving Party shall (to the extent permitted by applicable law) give the Disclosing Party reasonable advance notice of any such disclosure.
- c. The obligations of confidentiality in this Agreement shall survive until the earlier of the time when the information no longer meets the definition of Confidential Information or for the longest time allowed under applicable law.
- d. "Confidential Information" also shall mean, without limitation: any data or information disclosed in writing, orally, visually or in any other medium that is competitively sensitive material and not generally known to the public, including, but not limited to Plan Information. Any scientific, technical or business information, design, process, procedure, formula, or improvement that is commercially valuable and secret in the sense that its confidentiality affords either party a competitive advantage over its competitors; all confidential or proprietary concepts, documentation, reports, data, specifications, computer software, source code, object code, flow charts, data, databases, inventions, know-how, show-how and trade secrets, whether or not patentable, or copyrightable; all documents, inventions, substances, engineering and laboratory notebooks, drawings, diagrams, specifications, bills or material, equipment, prototypes and models, and any other tangible manifestation of the foregoing that now exist or come into the control or possession of the receiving Parties; and all copies thereof and all patent rights, copyrights, trade secrets, trademarks, service marks and other proprietary rights inherent therein and appurtenant thereto. Without limiting the foregoing, Confidential Information includes Plan Information.

- e. For purposes of this section, the "Disclosing Party" shall mean the Party or Party's employees, subcontractors, agents and affiliates that have given control or possession of Confidential Information to the Receiving Party. The "Receiving Party" shall mean the Party or the Party's employees, subcontractors, agents and affiliates that have received Confidential Information from Disclosing Party.
- f. Notwithstanding the foregoing, Confidential Information shall not include information that: (a) is or becomes a part of the public domain through no act or omission of the non-disclosing Party; (b) is lawfully disclosed to Receiving Party by a third party without an obligation of nondisclosure to the Disclosing Party; (c) is independently developed by the other Party without reference to the Confidential Information; or (d) is already lawfully known by the Receiving Party without nondisclosure obligations before it received the Confidential Information from the Disclosing Party.
- g. The State is an intended third-party beneficiary of this Section G and may enforce the provisions of this section against the Employer, or any other Representative of the Employer.

10. Representations and Warranties

- a. Each Party represents that it is free to enter into this agreement and that by doing so it will not breach or otherwise impair any other agreement or understanding with any other person, corporation or entity.
- b. Prudential further represents, warrants and covenants that:
 - i. It has full power and authority under applicable law, and has taken all necessary action, to enter into and perform this agreement, and that the person executing this agreement on its behalf is duly authorized and empowered to execute and deliver this agreement;
 - ii. This agreement, when executed and delivered, shall constitute the valid, legal and binding obligation of Prudential, enforceable in accordance with its terms.
- c. The Employer further represents, warrants and covenants that:
 - i. It has full power and authority under applicable law and has taken all action necessary to enter into and perform this agreement and that the person executing this Agreement on its behalf is duly authorized and empowered to execute and deliver this Agreement;

- ii. This agreement, when executed and delivered, shall constitute the valid, legal and binding obligation of the Employer, enforceable in accordance with its terms.

11. Termination

- a. This agreement may be terminated by either party with not less than 90 days advance written notice. The rights and obligations of the Parties which by their nature must survive termination of this agreement in order to achieve its fundamental purposes include, without limitation, the provisions of Section G (Confidential Information/Privacy Requirements/Security) and Section F (Limitation of Liability and Indemnification).

12. Applicable Law

- a. This agreement shall be construed, and the provisions hereof interpreted under, in accordance with the laws of the State of North Carolina.

13. Other Provisions

- a. This Agreement, together with the agreements referenced herein, contains all of the terms agreed upon between the Parties with respect to the subject matter hereof. This Agreement may be amended only by a writing signed by the Parties.
- b. This Agreement supersedes any and all other agreements made by the Parties with respect to the subject matter hereof.
- c. No waiver by either Party of any failure or refusal to comply with an obligation hereunder shall be deemed a waiver of any other obligation hereunder or any subsequent failure or refusal to comply with any other obligation hereunder.
- d. The stipulations in this agreement shall inure to the benefit of, and shall bind, the successors and assigns of the respective Parties.
- e. If any term or provision of this agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- f. Neither Party shall be responsible for any delay in its performance due to causes beyond its reasonable control.

- g. This Agreement may be executed simultaneously in two or more counterparts each of which taken together shall constitute one and the same agreement.

14. Notification

- a. Any notices that may be required under this agreement shall be given in writing and delivered personally or mailed by certified mail or overnight courier service to the other Party at the following address or such other address as each Party may give notice to the other. The notices shall be deemed received upon three (3) days after mailed by certified mail or the next business day if sent by overnight courier.

If to Prudential:

Prudential Retirement
30 Scranton Office Park
Scranton, PA 18507

If to the Employer:

15. Execution of Agreement

- a. By executing below, the undersigned represent that they are authorized to execute this agreement on behalf of the respective Parties. Each Party may rely without duty of inquiry on the foregoing representation.

16. Third-Party Administrator

- a. Should a Third-Party Administrator be hired to perform these services on behalf of the Employer, written notification within sixty (60) days of hire to Prudential shall be required.

17. Authorized Employer

- a. Employer agrees, represents, and warrants to Prudential that all instructions received will be submitted by persons authorized to act on behalf of the Employer and Prudential may rely upon those instructions as being genuine and duly authorized.

Employer

By: _____ Date: _____

Print Name: _____

Title Superintendent _____

Prudential

By: _____ Date: _____

Print Name: _____

Title: _____